



CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

Department: Human Resource Management
Subject: Family & Medical Leave Act

Policy Number: 6-20
Supersedes: 7/1/02
Date Issued: 2/26/03

I. INTRODUCTION

All full-time and part-time employees who have worked at least one year for Chesterfield County and have worked 1,250 hours for the County during the previous twelve months are eligible for twelve (12) work weeks of job-protected family and medical leave under the following circumstances:

- A. The employee's spouse, parent, son or daughter has a serious medical condition that requires the employee's care
- B. The birth of a son or daughter, or the placement of a son or daughter for adoption or placement of a foster child
- C. The employee's own serious medical condition

The Federal Family and Medical Leave Act (FMLA) of 1993 requires that all eligible employees are provided up to twelve (12) weeks of protected FMLA leave annually for certain family and medical reasons. FMLA leave does not have to be paid leave. However, employees may, and in some cases will be required to, use their accumulated paid leave for FMLA purposes. The object of this policy is to explain to employees and supervisors when FMLA leave may be taken and how FMLA leave is calculated and accounted for, giving consideration to the leave benefits employees already receive.

II. DEFINITIONS

- A. **Eligible Employee** – An employee who has been employed by the County of Chesterfield for at least 12 months (need not be consecutive months) and has worked for at least 1,250 hours during the 12 month period preceding the commencement of leave. Hours worked does not include paid or unpaid leave.
- B. **Health Care Provider** – A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or a podiatrist, dentist, clinical psychologist, optometrist or chiropractor authorized to practice in their state and performing within the scope of their practice as defined under state law; or nurse practitioners and nurse-midwives who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law; and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- C. **Immediate Family Member** – For purposes of this regulation means the child, spouse, or parent of the employee.
- D. **Parent** – The parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child. The term "parent" does not apply to an employee's "parents-in-law."
- E. **Serious Health Condition** – An illness, injury, impairment, or physical or mental condition that requires inpatient care or continuing treatment by a health care provider. (See ATTACHMENT II)
- F. **Spouse** – A husband or wife as defined or recognized under state law for purposes of marriage. This does not include domestic partners.

- G. **Son or Daughter** – A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis. The child must be under age 18 or be age 18 or older and incapable of self-care because of a mental or a physical disability.

III. GENERAL PROVISIONS

- A. The period for calculating eligibility is a fixed twelve-month “leave year” that coincides with the payroll system year.
- B. Taking FMLA leave shall not result in the loss of any employment benefits accrued prior to the date leave commences, except paid leave taken as FMLA leave.
- C. In accordance with County Personnel Policy 5-4 and Administrative Procedure 6-1, Section II.B, accrued sick leave may be used if the employee is unable to work due to an illness or injury incapacitating the employee. If the employee is not incapacitated, he/she (except as indicated in these sections) must use annual leave, compensatory time, or leave without pay. The employee will not accrue vacation leave, sick leave, holiday leave or pay during any period of leave without pay.
- D. FMLA leave for the birth of a child will not be permitted on an intermittent basis. FMLA leave for the birth of a child must be taken in consecutive days.
- E. FMLA leave for a serious health condition will be granted on an intermittent basis, if medically necessary. Certification from the attending physician documenting the necessity for intermittent leave will be required.
- F. Current health and dental care coverage will be maintained for the duration of time the employee is out on FMLA leave, with the County paying both the employee and County portions when the employee is on FMLA leave without pay. The employee’s portion of the premium payments will be collected on a pre-tax basis upon the return of the employee from FMLA leave. This will be accomplished by making multiple health care premium deductions per pay period (not to exceed 3). If an employee fails to return to work in their original or equivalent full time position after the employee’s FMLA leave entitlement has expired (unless for medical disability), the employee must reimburse the County for all of the health benefit premiums the County paid (both the County’s and the employee’s share) during the period of unpaid FMLA leave.
- G. An employee’s accumulated sick leave is counted toward the 12 weeks he is entitled to under the Family and Medical Leave Act for their own serious health condition. Therefore, employees must use their accumulated sick leave for their own serious medical condition before taking unpaid FMLA leave. Employees may use their annual leave or floating holidays for FMLA leave purposes, but they are not required to do so. If they do, that leave is also counted toward the 12 week FMLA entitlement. The employee may also request to use their compensatory time, but compensatory time cannot be counted toward the 12 week FMLA entitlement.
- H. In cases where both spouses work for the County, leave for the birth or adoption of a child is limited to 12 weeks combined.
- I. Life insurance, optional life insurance, and long-term disability benefits will be maintained by the county while the employee is on FMLA leave without pay. The employee’s portion of the premium payments will be collected upon the return of the employee from FMLA leave. If an employee fails to return to work after the employee’s FMLA leave entitlement has expired, the employee must reimburse the county for all premiums the county paid (employee and employer’s portions) during the period of unpaid FMLA leave. Flex-med will be collected upon the employee’s return to work. Contributions toward VRS are discontinued when an employee is on FMLA leave without pay.

- J. Merit dates and leave accrual dates for employees on FMLA leave will not change during their absence.
- K. An employee who is on workers' compensation for more than two weeks (80 hours) shall be informed in writing by their department director/office administrator or designee that their workers' compensation absence will be counted against the employee's FMLA leave entitlement. An employee who is receiving workers' compensation benefits while on FMLA leave may not be forced to return to work in a light duty assignment prior to the expiration of the FMLA leave entitlement. However, if the employee refuses to accept the light duty assignment, workers' compensation benefits will be suspended.
- L. An employee who takes FMLA leave shall be entitled, on return from such leave, to be restored to the same job classification of employment held by the employee when the leave commenced; or to be restored to an equivalent job classification with equivalent employment benefits, pay, and other terms and conditions of employment.

IV. PROCEDURE—EMPLOYEE REQUESTING FMLA LEAVE

- A. When an employee requests FMLA leave, the department director/office administrator or designee shall provide the employee with the FMLA Leave Packet, which includes the FMLA Fact Sheet (ATTACHMENT I), the Certification of Health Care Provider (ATTACHMENT II) and the Request for or Designation of FMLA Form (ATTACHMENT III) and gather the following information:
 - 1. Determine the employee's eligibility. Did the employee work for the County at least 12 months (not necessarily consecutive) as of the date leave will begin? Did the employee work at least 1,250 hours during the twelve months immediately preceding the start of the leave?
 - 2. Determine the estimated start date for the leave. Has the employee given at least 30 calendar days notice? If not, was 30 days notice practical? If so, the department director or designee may delay the starting date to 30 calendar days from the request. The decision to delay the beginning date must be made in writing and be made a part of the employee's personnel file.
 - 3. Determine the type of leave requested. Does the employee want to take intermittent leave? Remember that granting intermittent leave for the birth, adoption, or foster care placement of a child is not permitted. However, when intermittent leave is for a serious health condition, the department head or designee must grant it.
 - 4. Determine the anticipated duration of leave. Remember, a total of 12 workweeks within the fixed 12 month "leave year" is the maximum that is permitted. Requests for leave beyond the stated maximum would be subject to approval under other applicable leave policies.
 - 5. Check the employee's leave balance. How much sick, annual, floating holidays and compensatory leave does the employee have? For the employee's own serious health condition, the employee must exhaust all sick leave before going on annual leave, floating holiday or leave without pay.
 - 6. Is the employee's spouse also an employee of the County? Remember that for new children a maximum 12 workweeks combined is allowed between both the employees.
- B. The employee must arrange for a health care provider to complete and return the Certification of Health Care Provider form to the department director/office administrator. When possible, the employee will provide the medical certification before leave begins. When this is not possible, the employee will provide certification within 15 calendar days of the request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent,

good faith efforts. Health Care Provider Certification forms must be kept in a separate confidential file and be treated as confidential medical records.

- C. The department director/office administrator or designee must forward a completed copy of the Request for (or) Designation of FMLA Leave Form to the employee approving or denying the leave request. If the request is denied, the director must notify the employee in writing, outlining the reasons for the denial.
- D. The Place On/Remove From FMLA Form (ATTACHMENT IV) shall be forwarded to HRM when the employee will remain in paid status while on FMLA leave (i.e., sick or annual leave or floating holiday). In cases where an employee will be placed on FMLA leave without pay, the employee's Personnel Action Form shall be forwarded to Human Resource Management (HRM).
- E. When an employee who has been out on FMLA leave for his or her own serious health condition is ready to return to work, the employee may be required to present a statement from his or her health care provider certifying that the employee is medically able to return to work.
- F. Whenever a request for FMLA leave is denied, the denial and the reasons there for must be made in writing and a copy sent to the employee and placed in the employee's central personnel file.
- G. Any denial of FMLA leave may be reviewed by the Director of HRM at the employee's request. The decision of the Director of HRM or designee shall be final and binding to all parties.

V. PROCEDURE—EMPLOYER DESIGNATION OF FMLA LEAVE

- A. An employee's leave may qualify as FMLA leave, and may be designated by the employer as FMLA leave, even when an employee does not specifically request FMLA leave. Therefore, extended periods of sick leave (80 hours or greater) shall be designated and counted toward the 12-week entitlement. Shorter periods of leave that qualify may be designated at the discretion of the department director/office administrator. Properly accounting for FMLA leave gives employers a way to insure reasonable leave is taken. An employee who is out on extended sick leave, for example, may come back to work and immediately ask for leave under the FMLA to care for a seriously ill relative. If the sick leave has not been designated as FMLA leave, the employee may also be entitled to a full 12 weeks of FMLA leave.
- B. The department director/office administrator or designee must inform the employee that leave will be designated as FMLA leave, at least orally, within two business days after learning the leave qualifies as FMLA leave. Written notice of the designation must follow no later than the next payroll period. This can be done in the form of a memo or by having the employee complete the Request for (or) Designation of FMLA Leave Form and forwarding a copy of the approved form back to the employee.
- C. The Place On/Remove From FMLA form shall be forwarded to HRM when the employee will remain in paid status while on FMLA leave (i.e., sick or annual leave or floating holiday). In cases where an employee will be placed on FMLA leave without pay, the employee's Personnel Action Form shall be forwarded to HRM.
- D. In most cases, leave cannot be counted as FMLA leave retroactively. One exception is if the supervisor was not aware of the reason for the leave. In this case, leave may be designated as FMLA leave retroactively, only while the leave is in progress or within two business days of the employee's return to work.

FAMILY AND MEDICAL LEAVE ACT FACT SHEET

Eligible employees are provided up to twelve (12) weeks of protected FMLA leave in a 12 month period for certain family and medical reasons.

■ TO BE ELIGIBLE:

- ☞ The employee must be employed by Chesterfield County for at least 12 months prior to taking leave (need not be consecutive).
- ☞ The employee must have worked at least 1,250 hours in past 12 months.



■ REASONS FOR LEAVE:

- ☞ The employee's own serious health condition;
- ☞ The birth, placement for adoption, or placement of a foster child;
- ☞ The employee's spouse, parent, or child has a serious health condition that requires the employee's care.

- Leave must be requested 30 days in advance, except for unforeseen illnesses.
- Health care provider certification will be required and must be provided no later than 15 calendar days after request.
- Intermittent leave must be granted, if medically necessary, for a serious health condition. Health care provider certification is required.
- In cases of one's own serious health condition, sick leave is used before leave without pay. An employee may choose to use annual leave or floating holiday leave in order to continue in a paid leave status upon the exhaustion of sick leave. Both paid and unpaid FMLA leave are counted toward the 12 week entitlement.
- Current health and dental care coverage will be maintained for the duration of time the employee is out on FMLA leave, with the County paying both the employee and County portions during any periods of leave without pay. The employee's portion of the premium payments will be collected on a pre-tax basis upon the return of the employee from FMLA leave. If the employee fails to return to work after the employee's FMLA leave entitlement has expired (unless for medical disability), the employee must reimburse the County for all of the health benefit premiums the County paid during the period of unpaid FMLA leave.
- In accordance with Administrative Procedure 6-1, Section II (B) accrued sick leave may be used if the employee is unable to work due to an illness or injury incapacitating the employee. If the employee is not incapacitated (Administrative Procedure 6-1, Section II (B)), he/she must use annual leave, floating holiday leave, compensatory time, or leave without pay.
- A Health Care Provider statement approving return to work may be required.
- An employee on approved FMLA leave will be restored to same or equivalent position upon return to work.

See Administrative Procedure 6-20 for further details.

CERTIFICATION OF HEALTH CARE PROVIDER

(Family and Medical Leave Act of 1993)

1. Employee's Name:	2. Patient's Name (If different from employee):
<p>3. The attached sheet describes what is meant by a “serious health condition” under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category:</p> <p> <input type="checkbox"/> Hospital care <input type="checkbox"/> Chronic conditions requiring treatments <input type="checkbox"/> Absence plus treatment <input type="checkbox"/> Permanent or long-term conditions requiring supervision <input type="checkbox"/> Pregnancy <input type="checkbox"/> Multiple treatments (non-chronic conditions) <input type="checkbox"/> None of the above </p>	
<p>4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:</p>	
<p><u>EMPLOYEE'S OWN SERIOUS HEALTH CONDITION</u></p> <p>5. State the approximate date the condition commenced and the probable duration of the condition (and also the probable duration of the patient's present incapacity¹ if different):</p> <p>6. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 7 below)? Yes No If yes, give the probable duration:</p> <p>7. If the condition is a chronic condition, state whether the patient is presently incapacitated² and the likely duration and frequency of episodes of incapacity²:</p> <p>8. If the condition is pregnancy, state the amount of time the employee will be incapacitated after the delivery of the baby:</p>	

¹ Here and elsewhere on this form, the information sought relates **only** to the condition for which the employee is taking FMLA leave.

² “Incapacity,” for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

CARE FOR EMPLOYEE'S PARENT, SPOUSE OR CHILD

9.a. If leave is required to **care for a family member** of the employee with a serious health condition, **does the patient require assistance** for basic medical or personal needs or safety, or for transportation?

b. If no, would the employee's presence to provide **psychological comfort** be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only **intermittently** or on a **part-time basis**, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Date)

(City, State, Zip Code)

(Telephone Number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: (Attach an additional sheet if necessary.)

(Signature of Employee)

(Date)

DEFINITION OF “SERIOUS HEALTH CONDITION”

A “Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. **Hospital Care** - Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity² or subsequent treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment** - A period of incapacity² of more than **three consecutive calendar days** (including any subsequent treatment or period of incapacity² relating to the same condition), that also involves:
 - (a) Treatment³ **two or more times** by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - (b) Treatment by a health care provider on at least **one occasion** which results in a regimen of continuing treatment⁴ under the supervision of the health care provider.
3. **Pregnancy** - Any period of incapacity due to **pregnancy** or for **prenatal care**.
4. **Chronic Conditions Requiring Treatments** - A chronic condition which:
 - (a) Requires **periodic visits** for treatment by a health care provider or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - (b) Continues over an **extended period of time**, including recurring episodes of a single underlying condition; and
 - (c) May cause **episodic** rather than continuing period of incapacity² (e.g., asthma, diabetes, epilepsy, etc.)
5. **Permanent or Long-Term Conditions Requiring Supervision** - A period of incapacity² which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be **receiving active treatment by, a health care provider**. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (Non-Chronic Conditions)** - Any period of absence to receive multiple treatments, including any period of recovery therefrom, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity² of **more than three consecutive days** in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Request for or Designation of FMLA Leave Form Under the Family and Medical Leave Act

This form is to be completed by the employee and submitted to supervisor.

Name _____ Soc. Sec. No. _____
 Department _____ Phone No. _____
 Supervisor's Name _____ Employment Date _____

I have worked for Chesterfield Co. at least 1,250 hours in the past 12 months? ☐ Yes ☐ No

Purpose of Leave:

To care for an ill parent	For my own serious health condition
To care for an ill spouse	For the birth of a child and to care for that child
To care for an ill child	For placement of a child for adoption or foster care

Note: Health Care Provider Certification is required and is to be attached to this request.

Leave will begin on _____ I anticipate I will need leave until _____

I would like intermittent leave. (Explain schedule desired) _____

For my own serious health condition I want to:

If applicable, use all comp time before sick leave? ☐ Yes ☐ No

If no, retain _____ number of comp time hours.

Use all annual leave after exhausting sick leave? ☐ Yes ☐ No

If no, retain _____ number of annual leave hours.

Use all floating holiday leave after exhausting sick leave? ☐ Yes ☐ No

If no, retain _____ number of floating holiday leave hours.

I have read the attached Family and Medical Leave Act Fact Sheet.

Employee's Signature

Date

Approved: _____
Department Director or Designee

Date

FAMILY AND MEDICAL LEAVE ACT

PLACE ON / REMOVE FROM FMLA FORM

Employee Name _____	Employee SSN _____	Employment Date _____
Department _____	Location Code (8 digit code) _____	
Leave Request for: Employee Employee's family member		
Please note: A Personnel Action Form should be sent to HRM only if the employee goes on a leave without pay status, and again when the employee returns from leave without pay.		
PLEASE USE: SECTION A - To report when an employee begins FMLA leave. SECTION B - To report when an employee is released to return to work on a limited basis. SECTION C - To report when an employee is released to return to work full-time.		
SECTION A	We are placing the employee on FMLA leave. <div style="display: flex; justify-content: space-between;"> <div> Leave start date _____ The employee elects to: Use _____ number of comp time hours. Compensatory hours will be used before FMLA leave begins. Use all annual leave after exhausting all sick leave (for employee's own serious health condition). Use _____ number of annual leave hours. </div> <div> Estimated date of return (if known): _____ The following documentation is attached: Health Care Provider Certification Memo to employee or completed Request for Leave Form </div> </div>	
SECTION B	This is to inform HRM that the employee has been released to work on a limited basis. The effective date is _____ The following documentation is attached: Release to work form (if required)	
SECTION C	This is to inform HRM that the employee has returned to work on a full-time basis. The effective date is _____ The following documentation is attached: Release to work form (if required)	
Authorized Signature: <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>_____</div> <div>_____</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>Director or Designee</div> <div>Date</div> </div>		HRM/Payroll Use Only <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>_____</div> <div>_____</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>HRM/Date</div> <div>Payroll Date</div> </div> <div style="text-align: right; margin-top: 5px;">12/97</div>